

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 549****[BOP-1020-P]****RIN 1120-AA26****Plastic Surgery****AGENCY:** Bureau of Prisons, Justice.**ACTION:** Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing revised regulations concerning the circumstances and procedures under which the Bureau approves plastic surgery for inmates. The proposed regulations establish criteria under which plastic surgery may be approved: as a component of standard medical/surgical treatment, when necessary for the good order and security of the institution, and in other special situations as determined by the Medical Director. Additionally, these regulations have been reorganized to emphasize "informed consent" and to remove unnecessary provisions.

DATES: Comments due by December 19, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on plastic surgery (28 CFR part 549, subpart D). A final rule on this subject was published in the Federal Register on June 29, 1979 (44 FR 38236).

Under its current regulations on plastic surgery, the Bureau provides, within available resources, corrective and reconstructive surgery for an inmate to correct obvious disfigurement. Approval for such surgery follows when the surgery is indicated for medical reasons or when it is believed that such surgery will assist the inmate's institutional or post-release adjustment.

The proposed regulations stipulate in the statement of purpose that the Bureau ordinarily does not perform plastic surgery on inmates to correct preexisting disfigurements (including tattoos) on any part of the body. Plastic surgery may be performed when it is a component of the presently medically necessary standard of treatment. Plastic surgery may also be approved under special circumstances: Namely, for the

good order and security of the institution, or when some question exists as to whether the surgery qualifies as a component of presently medically necessary standard of treatment. Further revisions to the regulations include simplification and reorganization of the procedures for approval and "informed consent." Procedures relating to staff processing of inmate identification records have been removed and have been made part of internal instructions to staff.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, 320 First Street NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 549**Prisoners.**

Wallace H. Cheney,
Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), it is proposed to amend part 549 in subchapter C of 28 CFR, chapter V as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT**PART 549—MEDICAL SERVICES**

1. The authority citation for 28 CFR part 549 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082, (Repealed in part as to offenses committed on or after November 1, 1987), 4241-4247, 5006-5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. Subpart D, consisting of §§ 549.50 and 549.51, is revised to consist of §§ 549.50 through 549.52 as follows:

Subpart D—Plastic Surgery

Sec.

549.50 Purpose and scope.

549.51 Approval procedures.

549.52 Informed consent.

Subpart D—Plastic Surgery**§ 549.50 Purpose and scope.**

The Bureau of Prisons does not ordinarily perform plastic surgery on inmates to correct preexisting disfigurements (including tattoos) on any part of the body. In circumstances where plastic surgery is a component of a presently medically necessary standard of treatment (for example, part of the treatment for facial lacerations or for mastectomies due to cancer) or it is necessary for the good order and security of the institution, the necessary surgery may be performed.

§ 549.51 Approval procedures.

The Clinical Director shall consider individually any request from an inmate or a BOP medical consultant.

(a) In circumstances where plastic surgery is a component of the presently medically necessary standard of treatment, the Clinical Director shall forward the surgery request to the Office of Medical Designations and Transportation for approval.

(b) If the Clinical Director recommends plastic surgery for the good order and security of the institution, the request for plastic surgery authorization will be forwarded to the Warden for initial approval. The Warden will forward the request through the Regional Director to the Medical Director. The Medical Director shall have the final authority to approve or deny this type of plastic surgery request.

(c) If the Clinical Director is unable to determine whether the plastic surgery qualifies as a component of presently medically-necessary standard of treatment, the Clinical Director may forward the request to the Medical Director for a final determination in accordance with the provisions of paragraph (b) of this section.

§ 549.52 Informed consent.

Approved plastic surgery procedures may not be performed without the informed consent of the inmate involved.

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28 CFR Part 551**[BOP-1045-P]****RIN 1120-AA42****Inmate Organizations****AGENCY:** Bureau of Prisons, Justice.**ACTION:** Proposed rule.

SUMMARY: The Bureau of Prisons is proposing to revise its regulations on Inmate Organizations to prohibit fund-raising activities by inmates and to phase out provisions governing inmate accountability for funds. This amendment is intended to provide for the continued efficient and orderly operation of the institution and the Bureau.

DATES: Comments due by December 19, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on Inmate Organizations (28 CFR part 551, subpart D). A final rule on this subject was published in the Federal Register on June 29, 1979 (44 FR 38236) and was amended June 1, 1983 (48 FR 24625).

Current regulations on inmate organizations allow for the operation of fund-raising activities and consequently include provisions for accountability for funds. These activities potentially pose legal and financial problems; for example, nonpayment by the inmate organization. The Bureau, therefore, is proposing to prohibit fund-raising activities by inmates and to phase out provisions governing inmate accountability for funds.

The Bureau recognizes and supports the traditional purposes of approved inmate organizations allowing for social and recreational activities. While direct funding by inmate organizations would be eliminated, the proposed regulations allow for the funding of approved activities by the Bureau from designated funds (for example, the Trust Fund).

The proposed regulations have been generally revised for the sake of organization and clarity. The regulations contain specific procedures for the approval/disapproval of an organization or requested activities. The provisions for dues have been amended to ensure that monies do not accrue to an individual inmate organization. Finally,

the proposed regulations require, in accordance with Bureau policy and generally accepted accounting principles, the close-out of the operation of any funds previously accumulated by an inmate organization. Under Bureau policy, such funds could be used to finance an approved activity for the organization. Any remaining funds, or organization property assets which have not been converted to cash, would be disposed of through donation to an approved charity, the institution, or the Trust Fund.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, 320 First Street NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 551

Prisoners.

Wallace H. Cheney,

Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), it is proposed to amend part 551 in subchapter C of 28 CFR, chapter V as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT**PART 551—MISCELLANEOUS**

1. The authority citation for 28 CFR part 551 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 1512, 3621, 3622, 3624, 4001, 4005, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161-4166 (Repealed as to offenses committed on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; Pub. L. 99-500 (sec. 209); 28 CFR 0.95-0.99; Attorney General's August 6, 1991 Guidelines for Victim and Witness Assistance.

2. Subpart D, consisting of §§ 551.30 through 551.36, is revised as follows.

Subpart D—Inmate Organizations

Sec.

551.30 Purpose and scope.

551.31 Approval of an organization.

551.32 Staff supervision.

551.33 Dues.

551.34 Organization activities.

551.35 Funding.

551.36 Accountability for accumulated funds.

Subpart D—Inmate Organizations**§ 551.30 Purpose and scope.**

The Bureau of Prisons permits inmates and persons in the community to participate in approved inmate organizations for recreational, social, civic, and benevolent purposes.

§ 551.31 Approval of an organization.

(a) An inmate must submit a request for recognition of a proposed inmate organization to the Warden prior to the inmate organization's becoming active.

(b) The Warden may approve an inmate organization upon determining that:

(1) The organization has a constitution and bylaws duly approved by its members which include its purpose and objectives, the duties and responsibilities of the officer(s), and requirements for activities reporting and for operational review; and

(2) The organization does not operate in opposition to the security, good order, or discipline of the institution.

(c) The Warden may withdraw approval of an inmate organization for reasons of the security, good order, and discipline of the institution, or in accordance with § 551.34(e).

§ 551.32 Staff supervision.

(a) The Warden shall appoint a staff member as the institution's Inmate Organization Manager (IOM). The IOM shall be responsible for monitoring the activities of the institution's inmate organizations and staff sponsors.

(b) The Warden or designee shall assign a staff sponsor responsible for supervising the activities of an individual inmate organization. The staff sponsor's duties are performed while in official duty status.

§ 551.33 Dues.

Dues may be collected if they are required by a National Chapter, are collected by that same National Chapter, and the rate and method of collection have been approved by the Warden. No

portion of the dues may be kept by the inmate organization for use at the institution. The organization may not make payment of dues a requirement of membership for an inmate who lacks funds.

§ 551.34 Organization activities.

(a) An officer of the inmate organization must submit a written request for approval of an activity to the Warden or designee. Activities include, but are not limited to, meetings, guest speakers, sports competitions, banquets, community programs, or purchase of items intended for use by inmates in the institution which are in addition to those ordinarily furnished by the government. Activities may not include fund-raising projects. The request must include:

- (1) Name of the organization;
- (2) Nature or purpose of the activity;
- (3) Date, time, and estimated duration of the activity (if appropriate);
- (4) Estimated cost (if appropriate);
- (5) Information concerning guest participation;

(6) Other pertinent information requested by the Warden.

(b) The Warden may approve the request if the activity:

- (1) Does not conflict with scheduled inmate work or program activities;
- (2) Has confirmation of staff supervision;
- (3) Can be appropriately funded when applicable (see § 551.35);
- (4) Does not conflict with the security, good order, or discipline of the institution.

(c) When an activity requires the expenditure of government funds, the Warden ordinarily shall require reimbursement from non-inmate participants (guests or members).

(d) Each inmate organization shall be responsible for maintaining accurate records of its activities.

(e) The activities of an inmate organization may be suspended temporarily due to noncompliance with Bureau policy. The IOM is responsible for recommending the specific suspension sanction for the Warden's

approval. The inmate organization is to receive written notice of the proposed suspension sanction and shall have the opportunity to respond to the Warden. Continued non-compliance with Bureau policy shall result in an increase in the severity of the suspension sanction, and may include withdrawal of approval for the organization.

§ 551.35 Funding.

The Bureau of Prisons may fund approved activities of inmate organizations subject to the availability of designated funds.

§ 551.36 Accountability for accumulated funds.

Effective January 1, 1996 through March 31, 1996, all inmate organizations must close-out, in accordance with Bureau policy and generally accepted accounting principles, the operation of any funds previously accumulated by them.

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